

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Yanrong Wu,

Plaintiff

V.

Desert Palace, Inc., et al.,

Defendants

2:15-cv-00435-JAD-NJK

Order Staying Case Due to Pending Bankruptcy

Plaintiff Yanrong Wu brings this lawsuit against Desert Palace, Inc. alleging that her employer discriminated and retaliated against her in violation of Title VII, the Americans with Disabilities Act, and the Rehabilitation Act.¹ A summons was issued for Desert Palace on March 11, 2015,² but there is no evidence in the record that Desert Palace was served with process. So on July 14, 2015, the court sent Wu a notice that this action would be “dismissed without prejudice” unless she filed proof of service on the defendants by August 13, 2015, or showed good cause why service was not timely completed.³ Wu timely responded that she could not effectuate service because Desert Palace had filed a voluntary petition under Chapter 11 of the Bankruptcy Code on January 15, 2015.⁴

Wu has shown good cause why she did not timely serve the summons and complaint—Desert Palace’s pending bankruptcy case. “In order to protect the estate from being depleted by creditors’ lawsuits and seizures of property and provide the debtor breathing room to reorganize, 11 U.S.C. § 362(a) imposes an automatic stay” upon the filing of a bankruptcy petition.⁵ To accomplish these goals, § 362 automatically prohibits:

1 ECF 1.

2 ECF 3

³ ECE 6

4 ECE 7

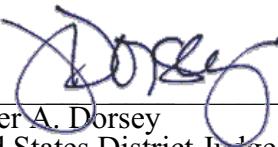
⁵ *In re Palmdale Hills Prop., LLC*, 654 F.3d 868, 874–75 (9th Cir. 2011) (citing *White v. City of Santee*, 186 B.R. 700, 704 (Bankr. App. 9th Cir. 1995)).

1 (1) commencing or continuing actions against the debtor that began
2 or could have begun before the bankruptcy was filed, or to recover
3 a pre-petition claim against the debtor; and (2) “any act to obtain
4 possession of property of the estate or of property from the estate
5 or to exercise control over the property of the estate.”⁶

6 The automatic stay prohibited Wu from serving Desert Palace with a copy of the summons and
7 complaint within the time allowed under FRCP 4(m). Exercising its discretion, the court now
8 stays this action under 11 U.S.C. § 362 pending further order from the bankruptcy court.

9 Accordingly, IT IS HEREBY ORDERED that this action is **STAYED** pending further
10 order from the bankruptcy court. IT IS FURTHER ORDERED that Wu must file a status report
11 by **Tuesday, July 19, 2016**, informing the court of the status of Desert Palace’s bankruptcy case.

12 Dated: January 19, 2016

13 
14 _____
15 Jennifer A. Dorsey
16 United States District Judge

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28 ⁶ *Id.* at 875 (quoting 11 U.S.C. § 362(a)(1) & (3)).